

AMENDMENTS TO LB 46

Introduced by Agriculture

1 1. Insert the following new sections:

2 Section 1. For purposes of sections 1 to 4 of this act:

3 (1) Commercial channels means the sale or delivery of
4 grapes for any use except grapes intended for ultimate consumption
5 as table grapes, to any commercial buyer, dealer, processor, or
6 cooperative or to any person, public or private, who resells any
7 grapes or product produced from grapes;

8 (2) Delivered or delivery means receiving grapes for
9 utilization or as a result of sale in the State of Nebraska but
10 excludes receiving grapes for storage;

11 (3) First purchaser means any person, public or private
12 corporation, association, partnership, or limited liability company
13 buying, accepting for shipment, or otherwise acquiring the property
14 in or to grapes from a grower;

15 (4) Grower means any landowner personally engaged in
16 growing grapes, a tenant of the landowner personally engaged
17 in growing grapes, and both the owner and tenant jointly and
18 includes a person, a partnership, a limited liability company, an
19 association, a corporation, a cooperative, a trust, or any other
20 business unit, device, or arrangement; and

21 (5) Table grapes means grapes intended for ultimate
22 consumption as produce in fresh, unprocessed form and not intended
23 for wine production, juice production, or drying.

1 Sec. 2. (1) Except as provided in subsection (2) of this
2 section, an excise tax of one cent per pound is levied upon all
3 grapes sold through commercial channels in Nebraska or delivered in
4 Nebraska. The excise tax shall be paid by the grower at the time
5 of sale or delivery and shall be collected by the first purchaser.
6 Grapes shall not be subject to the excise tax imposed by this
7 section more than once.

8 (2) The excise tax imposed by this section shall not
9 apply to the sale of grapes to the federal government for the
10 ultimate use or consumption by the people of the United States when
11 the State of Nebraska is prohibited from imposing such excise tax
12 by the United States Constitution and the laws enacted pursuant
13 thereto.

14 Sec. 3. (1) The first purchaser, at the time of
15 settlement, shall deduct the excise tax imposed by section 2
16 of this act. The excise tax shall be deducted whether the grapes
17 are stored in this state or any other state. The first purchaser
18 shall maintain the necessary records of the excise tax for each
19 purchase or delivery of grapes on the settlement form or check
20 stub showing payment to the grower for each purchase or delivery.
21 Such records maintained by the first purchaser shall provide the
22 following information:

- 23 (a) The name and address of the grower and seller;
24 (b) The date of the purchase or delivery;
25 (c) The number of pounds of grapes purchased; and
26 (d) The amount of excise taxes collected on each purchase
27 or delivery.

1 Such records shall be open for inspection during normal
2 business hours observed by the first purchaser.

3 (2) The first purchaser shall render and have on file
4 with the Department of Agriculture by the last day of January
5 and July of each year, on forms prescribed by the department, a
6 statement of the number of pounds of grapes purchased in Nebraska.
7 At the time the statement is filed, such first purchaser shall pay
8 and remit to the department the excise tax imposed by section 2 of
9 this act.

10 (3) All excise taxes collected by the department pursuant
11 to this section shall be remitted to the State Treasurer for credit
12 to the Winery and Grape Producers Promotional Fund. The department
13 shall remit the excise tax collected to the State Treasurer within
14 ten days after receipt.

15 Sec. 4. For each fiscal year beginning with FY2007-08,
16 the Department of Agriculture shall calculate its costs in
17 collecting and enforcing the excise tax imposed by section 2
18 of this act and shall report such costs to the Department of
19 Administrative Services within thirty days after the end of the
20 calendar quarter. Sufficient funds to cover such costs shall be
21 transferred from the Winery and Grape Producers Promotional Fund
22 to the Management Services Expense Revolving Fund at the end of
23 each calendar quarter. Funds shall be transferred upon the receipt
24 by the Department of Administrative Services of a report of costs
25 incurred by the Department of Agriculture for the previous calendar
26 quarter.

27 Sec. 5. Any person violating sections 1 to 3 of this act

1 shall be guilty of a Class III misdemeanor.

2 2. On page 2, lines 5 through 7 and 9, strike the new
3 matter and reinstate the stricken matter; in line 14 after "fund"
4 insert "pursuant to the charge imposed by this section and excise
5 taxes collected pursuant to section 3 of this act and any funds
6 received as gifts, grants, or bequests and credited to the fund";
7 and in line 27 after "section" insert "and any transfers authorized
8 pursuant to section 4 of this act".

9 3. Renumber the remaining sections accordingly.